

Midland County
Cheryl Becker
County Clerk
Midland, Texas 79702



70 2011 00017588

Instrument Number: 2011-17588

As

Recorded On: September 02, 2011

Recording after Aug 2005

Billable Pages: 7

Number of Pages: 8

Comment: DT D&J REALTY LLC

(Parties listed above are for Clerks reference only)

**** Examined and Charged as Follows: ****

| | |
|--------------------------|--------------|
| Recording after Aug 2005 | 40.00 |
| Total Recording: | 40.00 |

***** DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY
because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 2011-17588
Receipt Number: 348650
Recorded Date/Time: September 02, 2011 10:29:07A
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Record and Return To:

LONE STAR ABSTRACT & TITL
ATTN: MARY SHELTON
600 N. Loraine
Midland TX 79701



State of Texas
County of Midland

I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me and was duly
RECORDED in named RECORDS of Midland County, Texas as stamped hereon.

Cheryl Becker County Clerk
Midland County, Texas

RETURN TO:

LONE STAR ABSTRACT & TITLE CO., INC.

CD # 100292 (NS)

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

GF 100292 dkb/wp

**DEED OF TRUST
(Commercial - Purchase Money)**

17588

THE STATE OF TEXAS

§

§KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF MIDLAND

§

THAT **D&J REALTY, LLC** hereinafter called Grantor (whether one or more) for the purpose of securing the indebtedness hereinafter described, and in consideration of the sum of TEN DOLLARS (\$10.00) to us in hand paid by the Trustee hereinafter named, the receipt of which is hereby acknowledged, and for the further consideration of the uses, purposes and trusts hereinafter set forth, have granted, sold and conveyed, and by these presents do grant, sell and convey unto MARY A. SHELTON, TRUSTEE, whose address is 600 North Loraine, Midland, Midland County, Texas 79701, and his substitutes or successors, all of the following described property, to wit:

Being LOT TWO (2), BLOCK ELEVEN (11), MIDKIFF INDUSTRIAL CENTER SECTION 20, an addition to the City of Midland, Midland County, Texas, according to the map or plat thereof, recorded in Cabinet E, Page 11, Plat Records, Midland County, Texas, and being further described by the metes and bounds as listed on said plat:

FIELD NOTES OF A 7.17 ACRE TRACT OF LAND LOCATED IN SECTION 4, BLOCK 39, T-2-S, T & P RY COMPANY SURVEY, MIDLAND COUNTY, TEXAS:

BEGINNING at a 1-inch iron rod in Section 4, Block 39, T-2-S, T & P Ry Company Survey, Midland County, Texas, for an interior corner this tract, from which the southwest corner of said Section 4 bears S 74°32' W, 1361.9 feet and S 15°29' E, 2650.0 feet;

THENCE N 15°22'24" W, 550.63 feet to a 1-inch iron rod for the northwest corner this tract;

THENCE N 74°32' E, 409.0 feet to a 1-inch iron rod for the northeast corner this tract;

THENCE S 15°22'24" E, along the center line of Industrial Loop East, 40.0 feet to a 1-inch iron rod for an exterior corner this tract;

THENCE S 74°32' W, 40.0 feet to a 1-inch iron rod for an interior corner this tract;

THENCE S 15°22'24" E, along the west Right-of-Way of Industrial Loop East, 820.63 feet to a 1-inch iron rod for the southeast corner this tract;

THENCE S 74°32' W, along the north Right-of-Way of Rosa Avenue, 344.95 feet to a 1-inch iron rod for the southwest corner this tract;

THENCE N 15°22' W, 310.0 feet to a 1-inch iron rod for a interior corner this tract;

THENCE S 74°32' W, 24.95 feet to the Place of Beginning and containing 7.17 acres of land.

TO HAVE AND TO HOLD the above described property, together with the rights, privileges and appurtenances thereto belonging unto the said Trustee, and to her substitutes or successors forever. And Grantor does hereby bind Grantor, Grantor's heirs, executors, administrators and assigns to warrant and forever defend the said premises unto the said Trustee, his substitute or successors and assigns forever, against the claim, or claims, of all persons claiming or to claim the same or any part thereof.

This conveyance, however, is made in Trust to secure payment of one (1) promissory note ("Grantor's Note") of even date herewith in the principal sum of ONE MILLION TWO HUNDRED THOUSAND AND NO/100 (\$ 1,200,000.00) executed by Grantor, payable to the order of **MIDLAND LESSOR ONE LLC** in the County of Midland, State of Texas, as therein provided; bearing interest as therein stipulated, providing for acceleration of maturity and for attorney's fees.

Should Grantor do and perform all of the covenants and agreements herein contained, and make prompt payment of said indebtedness as the same shall become due and payable, then this conveyance shall become null and void and no further force and effect, and shall be released at the expense of Grantor, by the holder thereof, hereinafter called Beneficiary.

Grantor covenants and agrees as follows:

That Grantor is lawfully seized of said property, and has the right to convey the same; that said property is free from all liens and encumbrances, except as herein provided.

To protect the title and possession of said property and to pay when due all taxes and assessments now existing or hereafter levied or assessed upon said property, or the interest therein created by this Deed of Trust, and to preserve and maintain the lien hereby created as a first and prior lien on said property including any improvements hereafter made a part of the realty.

To keep the improvements on said property in good repair and condition, and not to permit or commit any waste thereof; to keep said buildings occupied so as not to impair the insurance carried thereon.

To insure and keep insured all improvements now or hereafter created upon said property against loss or damage by fire and windstorm, and any other hazard or hazards as may be reasonably required from time to time by Beneficiary during the term of the indebtedness hereby secured, to the extent of the original amount of the indebtedness hereby secured, or to the extent of the full insurable value of said improvements, whichever is the lesser, in such form and with such Insurance Company or Companies as maybe approved by Beneficiary and to deliver to Beneficiary the policies of such insurance having attached to said policies such mortgage indemnity clause as Beneficiary shall direct; to deliver renewals of such policies to Beneficiary at least ten (10) days before any such insurance policies shall expire; and any proceeds which Beneficiary may receive under any such policy or policies, may be applied by Beneficiary, at his option, to reduce the indebtedness hereby secured, whether then matured or to mature in the future, and in such manner as Beneficiary may elect, or Beneficiary may permit Grantor to use said proceeds to repair or replace all improvements damaged or destroyed and covered by said policy.

That in the event Grantor shall fail to keep the improvements on the property hereby conveyed in good repair and condition, or to pay promptly when due all taxes and assessments, as aforesaid, or to

preserve the prior lien of this Deed of Trust on said property, or to keep the buildings and improvements insured, as aforesaid, or to deliver the policy, or policies, of insurance or the renewal thereof to Beneficiary, as aforesaid, then Beneficiary may, at his option, but without being required to do so, make such repairs, pay such taxes and assessments, purchase any tax title thereon, remove any prior liens, and prosecute or defend any suits in relation to the preservation of the prior lien of this Deed of Trust on said property, or insure and keep insured the improvements thereon in an amount not to exceed that above stipulated; that any sums which may be so paid out by Beneficiary and all sums paid for insurance premiums, as aforesaid, including the costs, expenses and attorney's fees paid in any suit affecting said property when necessary to protect the lien hereof shall bear interest from the dates of such payments at the rate stated in said note and shall be paid by Grantor to Beneficiary upon demand, at the same place at which said note is payable, and shall be deemed a part of the debt hereby secured and recoverable as such in all respects.

That in the event of default in the payment of any installment, principal or interest, of the note hereby secured, in accordance with the terms thereof, or of a breach of any of the covenants herein contained to be performed by Grantors, then and in any of such events Beneficiary may elect, after ten (10) days prior written notice, to declare the entire principal indebtedness hereby secured with all interest accrued thereon and all other sums hereby secured immediately due and payable, and in the event of default on the payment of said indebtedness when due or declared due, it shall thereupon, or at any time thereafter, be the duty of the Trustee, or his successor or substitute as hereinafter provided, at the request of Beneficiary (which request is hereby conclusively presumed), to enforce this Trust; and after advertising the time, place and terms of the sale of the above described and conveyed property, then subject to the lien hereof, and mailing and filing notices, as required by section 51.002, Texas Property Code, as then amended (successor to article 3810, Texas Revised Civil Statutes), and otherwise complying with that statute, the Trustee shall sell the above described property, then subject to the lien hereof, at public auction in accordance with such notices on the first Tuesday in any month between the hours of ten o'clock A.M. and four o'clock P.M., to the highest bidder for cash, selling all of the property as an entirety or in such parcels as the Trustee acting may elect, and make due conveyance to the Purchaser or Purchasers, with general warranty binding Grantor, their heirs and assigns; and out of the money arising from such sale, the Trustee acting shall pay first, all the expenses of advertising the sale and making the conveyance, including a commission of five percent (5%) to himself, which commission shall be due and owing in addition to the attorney's fees provided for in said note, and then to Beneficiary the full amount of principal, interest, attorney's fees and other charges due and unpaid on said note and all other indebtedness secured hereby, rendering the balance of the sales price, if any, to Grantor, their heirs or assigns; and the recitals in the conveyance to Purchaser or Purchasers shall be full and conclusive evidence of the truth of the matter therein stated, and all prerequisites to said sale shall be presumed to have been performed, and such sale and conveyance shall be conclusive against Grantor, their heirs and assigns.

It is agreed that in the event a foreclosure hereunder should be commenced by the Trustee, or his substitute or successor, Beneficiary may at any time before the sale of said property direct the said Trustee to abandon the sale, and may then institute suit for the collection of said note, and for the foreclosure of this Deed of Trust lien; it is further agreed that if Beneficiary should institute a suit for the collection thereof, and for a foreclosure of this Deed of trust lien, that he may at any time before the entry of a final judgment in said suit dismiss the same, and require the Trustee, his substitute or successor to sell the property in accordance with the provisions of this Deed of Trust.

Beneficiary, if he is the highest bidder, shall have the right to purchase at any sale of the property, and to have the amount for which such property is sold credited on the debt then owing.

Beneficiary, in any event, is hereby authorized to appoint a substitute trustee, to act instead of the Trustee named herein without other formality than the designation in writing of a substitute or successor trustee; and the authority hereby conferred shall extend to the appointment of other successor and substitute trustees successively until the indebtedness hereby secured has been paid in full, or until said property is sold hereunder, and each substitute trustee shall succeed to all of the rights and powers of the original Trustee named herein.

In the event any sale is made of the above described property, or any portion thereof, under the terms of this Deed of Trust, Grantor, their heirs and assigns, shall forthwith upon the making of such sale surrender and deliver possession of the property so sold to the Purchasers at such sale, and in the event of their failure to do so they shall thereupon from and after the making such sale be and continue as tenants at will of such Purchaser, and in the event of their failure to surrender possession of said property upon demand, the Purchaser, his heirs or assigns, shall be entitled to institute and maintain an action for forcible detainer of said property in the Justice of the Peace Court in the Justice Precinct in which such property, or any part thereof, is situated.

It is agreed that the lien hereby created shall take precedence over and be a prior lien to any other lien of any character whether vendor's, materialman's or mechanic's lien hereinafter created on the above described property, and in the event the proceeds of the indebtedness secured hereby as set forth herein are used to pay off and satisfy any liens heretofore existing on said property, then Beneficiary is, and shall be, subrogated to all of the rights, liens and remedies of the holder of the indebtedness so paid.

It is further agreed that if Grantor, its successors and assigns, while the owner of the hereinabove described property, should commit an act of bankruptcy, or authorize the filing of a voluntary petition in bankruptcy, or should an act of bankruptcy be committed and involuntary proceedings instituted or threatened, or should the property hereinabove described be taken over by a Receiver for Grantor, their heirs or assigns, the note hereinabove described shall, at the option of Beneficiary, immediately become due and payable, and the acting Trustee may then proceed to sell the same under the provisions of this Deed of Trust.

As further security for the payment of the hereinabove described indebtedness, Grantor hereby transfers, assigns, and conveys unto Beneficiary all rents issuing or to hereafter issue from said real property, and in the event of any default in the payment of said note or hereunder, Beneficiary, his agent or representative, is hereby authorized, at his option, to collect said rents, or if such property is vacant to rent the same, and collect the rents, and apply the same, less the reasonable costs and expenses of collection thereof, to the payment of said indebtedness, whether then matured or to mature in the future, and in such manner as Beneficiary may elect. The collection of said rents by Beneficiary shall not constitute a waiver of his rights to accelerate the maturity of said indebtedness nor of his right to proceed with the enforcement of this Deed of Trust.

It is agreed that an extension, or extensions, may be made of the time of payment of all, or any part, of the indebtedness secured hereby, and that any part of the above described property may be

released from this lien without altering or affecting the priority of the lien created by this Deed of Trust in favor of any junior encumbrancer, mortgagee or purchaser, or any persons acquiring an interest in the property hereby conveyed, or any part thereof; it being the intention of the parties hereto to preserve this lien on the property herein described and all improvements thereon, and that may be hereafter constructed thereon, first and superior to any liens that may be placed thereon, or that may be fixed, given or imposed by law thereon after the execution of this instrument notwithstanding any such extension of the time of payment, or the release of a portion of said property from this lien.

In the event any portion of the indebtedness hereinabove described cannot be lawfully secured by this Deed of Trust lien on said real property, it is agreed that the first payments made on said indebtedness shall be applied to the discharge of that portion of said indebtedness.

Beneficiary shall be entitled to receive any and all sums which may become payable to Grantor for the condemnation of the hereinabove described real property, or any part thereof, for public or quasi-public use, or by virtue of private sale in lieu thereof, and any sums which may be awarded or become payable to Grantor for damages caused by public works or construction on or near the said property. All such sums are hereby assigned to Beneficiary, who may, after deducting therefrom all expenses actually incurred, including attorney's fees, release same to Grantor or apply the same to the reduction of the indebtedness hereby secured, whether then matured or to mature in the future, or on any money obligation hereunder, as and in such manner as Beneficiary may elect. Beneficiary shall not be, in any event or circumstances, liable or responsible for failure to collect, or exercise diligence in the collection of, any such sums.

The parties intend to conform strictly to the applicable usury laws. All agreements between lender and Borrower (or any other party liable with respect to any indebtedness under the Loan Documents) are hereby limited by the provisions of this paragraph which shall override and control all such agreements, whether now existing or hereafter arising and whether written or oral. In no way, nor in any event or contingency (including but not limited to prepayment, default, demand for payment, or acceleration of the maturity of any Obligations or any part thereof), shall the interest contracted for, charged or received under the Note or otherwise exceed the maximum amount permissible under applicable law. If, from any possible construction of any document, interest would otherwise be payable to lender in excess of the maximum lawful amount, any such construction shall be subject to the provisions of this paragraph and such document shall be automatically reformed and the interest payable to lender shall be automatically reduced to the maximum amount permitted under applicable law, without the necessity of execution of any amendment or new document. If lender shall ever receive anything of value which is characterized as interest under applicable law and which would apart from this provision be in excess of the maximum lawful amount, an amount equal to the amount which would have been excessive interest shall, without penalty, be applied to the reduction of the principal amount owing in the inverse order of its maturity and not to the payment of interest, or refunded to Borrower to the extent that the amount which would have been excessive interest exceeds unpaid principal. The right to accelerate maturity of the Note or any other indebtedness does not include the right to accelerate any interest, which has not otherwise accrued on the date of such acceleration, and lender does not intend to charge or receive any unearned interest in the event of acceleration. All interest paid or agreed to be paid to lender shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full stated term (including any renewal or extension) of such indebtedness so

that the amount of interest on account of such indebtedness does not exceed the maximum permitted by applicable law.

This Deed of Trust shall be binding upon and inure to the benefit of not only said parties respectively but also their respective heirs, executors, administrators, grantees, successors and assigns.

Grantor shall, at the option of the Beneficiary, create an escrow fund for the payment of all insurance premiums, taxes and assessments against the premises by paying to the Beneficiary each month contemporaneously with the installments due and payable on the Note a sum equal to the premiums that will next become due and payable on the hazard insurance policies covering the premises, plus taxes and assessments next due and payable on the premises, as estimated by Beneficiary, less all sums paid therefor, divided by the number of months to lapse before one month prior to the date when such premiums, taxes and assessments will become due and payable, such sums to be held by Beneficiary on subsequent payments to be made by Grantor, and any deficiency shall be paid by Grantor to Beneficiary on or before the date when such premiums, taxes and assessments shall be due. Transfer of legal title to the premises shall automatically transfer to the new owner the beneficial interest in all sums deposited under the provisions of this paragraph.

Grantor expressly represents that this Deed of Trust and the Note hereby secured are given for part payment of the purchase price, and part as payment for certain improvements to be made and erected for Grantor at their special instance and request, upon the herein described real property and the lien securing said Note is an improvement lien also secured by this Deed of Trust.

Additional Provisions:

The real property secured by this indenture may not be conveyed, sold (in whole or in part), or encumbered without the express written permission of the Beneficiary herein.

In the event Borrower is required by regulatory agencies to incur costs to mediate environmental hazards within 3 years of the date hereof, Borrower may abate an amount equal to costs incurred, up to but not exceeding \$100,000.00 of the balance due at the end of the Note. In the event Borrower pays the Note prior to the end of the 3 year term, Beneficiary shall escrow \$100,000.00 for environmental costs incurred as a result of regulatory requirements for the remaining period. At the end of the 3 year term, any funds escrowed and not disbursed as reimbursement to Borrower shall be refunded to Beneficiary.

Any breach of these additional provisions shall be a breach of the entire Deed of Trust.

EXECUTED this 1st day of September, 2011 .

GRANTOR:

D&J REALTY, LLC

By: Jackie Dale Redman
Jackie Dale Redman

Its: Member

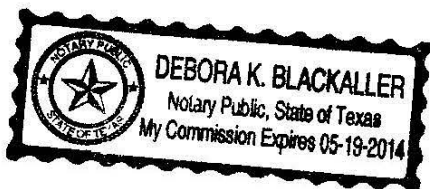
Affirmed and Agreed:

MIDLAND LESSOR ONE LLC

BY: *O.G. Bunting*
O.G. BUNTING, MANAGER

THE STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

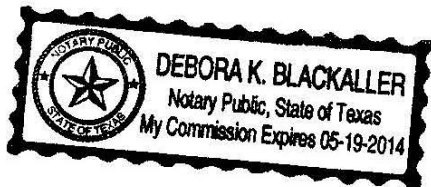
This instrument was acknowledged before me on this the 1st day of September, 2011, by **Jackie Dale Redman, Member of D&J REALTY, LLC**, a Texas limited liability company on behalf of said company.



Debora K Blackaller
NOTARY PUBLIC, STATE OF TEXAS

THE STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

This instrument was acknowledged before me on this the 1st day of September, 2011, by **O.G. BUNTING, MANAGER OF MIDLAND LESSOR ONE LLC** a Texas limited liability company on behalf of said company.



Debora K Blackaller
NOTARY PUBLIC, STATE OF TEXAS